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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2011-100**

13 **JENNIFER LYNN GEMBICKI, A.K.A.**
14 **JENNIFER LYNN GAMBICKI, A.K.A.,**
15 **JENNIFER LYNN WARD**
3657 Floral Drive
16 North Highlands, CA 95660
Registered Nurse License No. 712490

A C C U S A T I O N

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 **Registered Nurse License**

23 2. On or about September 14, 2007, the Board of Registered Nursing issued Registered
24 Nurse License Number 712490 to Jennifer Lynn Gembicki, also known as Jennifer Lynn
25 Gambicki and Jennifer Lynn Ward ("Respondent"). The registered nurse license was in full force
26 and effect at all times relevant to the charges brought herein and will expire on December 31,
27 2010, unless renewed.
28

STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes; but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

6. Code section 2762, states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

REGULATORY PROVISION

7. California Code of Regulations, title 16, section 1442, states:

As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which

1 the nurse knew, or should have known, could have jeopardized the client's health or
2 life.

3 COST RECOVERY

4 8. Code section 125.3 provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licentiate found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

8 9. DRUGS

9 "Ambien" is a brand of zolpidem tartrate a Schedule IV controlled substance pursuant to
10 Health and Safety Code section 11057, subdivision (d)(32), and a dangerous drug within the
11 meaning of Code section 4022 in that it requires a prescription under federal and state law.

12 "Percocet" is a Schedule II controlled substance pursuant to Health and Safety Code
13 section 11055, subdivision (b)(1)(N) and a dangerous drug within the meaning of Code section
14 4022 in that it requires a prescription under federal and state law.

15 FIRST CAUSE FOR DISCIPLINE

16 (Gross Negligence)

17 10. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(1),
18 on the ground of unprofessional conduct, in that on or about October 22, 2007, while on duty as a
19 registered nurse, at **Sierra Vista Hospital, Sacramento, California**, a facility that provides a full
20 range of inpatient and outpatient psychiatric services for children, adolescents, and adults,
21 Respondent committed repeated acts constituting gross negligence, as defined in California Code
22 of Regulations, title 16, section 1442, as follows:

23 a. Respondent violated a patient's right to privacy by revealing to staff and patients an
24 incoming new patient's personal health information.

25 b. Respondent jeopardized the new patient's ability to develop therapeutic relationships
26 in an environment where the patient was involuntarily placed, that was intended to be supportive
27 and healing.

28 c. Respondent lacked any consideration of significant adolescent milestones, resulting in
the new patient being alienated from her peers.

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1 b. On or about February 18, 2009, at 2100 hours Respondent charted the administration
2 of the controlled substance Ambien to this patient when the patient had no physician order for
3 that medication.

4 c. On or about February 23, 2009, at 2100 hours Respondent charted the administration
5 of the controlled substance Ambien to this patient when the patient had no physician order for
6 that medication.

7 **Patient B**

8 d. On or about March 4, 2009, Respondent charted the administration of the controlled
9 substance Percocet to Patient B at 1600 hours and then again 5 hours later at 2100 hours;
10 however, the physician ordered the drug be given only every 8 hours.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Out-of-State Discipline)**

13 13. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(4),
14 on the grounds of unprofessional conduct, in that Respondent has been disciplined by the State of
15 Illinois, Department of Professional Regulation ("Illinois Board"). Pursuant to the Order in Case
16 No. 2006-02210, issued by the Illinois Board, Respondent's Illinois Registered Nurse License
17 Number 041311794 was indefinitely suspended for a minimum of three (3) years. The basis for
18 said discipline is that while employed at the Proctor Hospital in Peoria, Illinois, and offering her
19 services through Advantage Nursing Services, Respondent improperly billed for services she had
20 not actually rendered.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct)**


23 14. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a), on
24 the grounds of unprofessional conduct, as more particularly set forth in paragraphs 9 through 13,
25 above.

26 **PRAYER**

27 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
28 and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 712490, issued to Jennifer Lynn Gambicki, also known as Jennifer Lynn Gambicki, and Jennifer Lynn Ward;
2. Ordering Jennifer Lynn Gambicki, also known as Jennifer Lynn Gambicki, and Jennifer Lynn Ward to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/6/10

for 
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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